



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1446 (1965)

July 21, 1986

SUBJECT: ASCS Conservation Reserve Program

TO: All State Directors, State Directors-at-Large, Farmer Program
Chiefs, District Directors, and County Supervisors, FmHA

PURPOSE/INTENDED OUTCOME

The purpose of this AN is to provide guidance for servicing Farmer Programs borrowers' accounts when FmHA real estate security has been accepted into the ASCS Conservation Reserve Program (CRP). The intended outcome is to aid in the Secretary of Agriculture's intent to take highly erodible land out of production for 10 years and to protect FmHA's security interest in real estate.

COMPARISON WITH PREVIOUS AN

There has been no previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES

County Supervisors will contact ASCS for a list of persons who offer a bid for the CRP. The County Supervisor will also arrange with ASCS to obtain lists of persons whose bids are accepted. The County Supervisor will contact borrowers whose bids are accepted and borrowers who offer bids in future sign-up periods to discuss the borrowers' plans for the farming operation.

For the purposes of servicing under FmHA Instruction 1965-A, a borrower who has placed either all or a portion of his/her farm into the conservation reserve will be determined to be operating the farm.

If it is necessary to assure debt repayment, loan applicants will be required to assign CRP cash annual rental payments to FmHA through ASCS. Borrowers who have not applied for a loan should be requested, but not required, to assign these cash payments to FmHA. ASCS regulations do not allow for assignments to be taken on CRP annual payments made in the form of commodity certificates or for assignments for pre-existing debt. Proposed ASCS regulations, which are expected to be published prior to the October 1, CRP payments, will allow for assignment for pre-existing debt for CRP payments only. State Offices should notify the field offices when this change to ASCS regulations is published in the Federal Register.

EXPIRATION DATE: March 31, 1987

FILING INSTRUCTION: Preceding
FmHA Instruction 1965-A



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Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

When an applicant or a borrower has applied for a loan and if income from the CRP payment is necessary to assure debt repayment, the County Supervisors will include CRP annual rental payments, regardless of whether they are made in cash or with a Commodity Certificate, on Form FmHA 431-2, "Farm and Home Plan," Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security," and in Part II, Item 4 of Form FmHA 440-4, "Security Agreement (Chattels and Crops)." If the applicant or borrower refuses to execute the above forms, a loan will not be made. Although ASCS regulations do not allow a lien to be taken on Commodity Certificates, there will be a contract between FmHA and the borrower. Unauthorized disposition of Commodity Certificates or the proceeds thereof will constitute grounds for conversion action against the borrower. No third party conversion action will be taken by FmHA against ASCS or purchasers of the certificates.

When servicing a borrower's account where no loan request is involved, and if income from the CRP payment is necessary to assure debt repayment and/or adequate security, the County Supervisor should attempt to include the CRP payments on the above forms. If the borrower refuses to do this, the County Supervisor should point out Part III, Item H of Form FmHA 440-4. If the borrower still refuses, the State Office should contact their Regional Attorney to determine if this is a sufficient nonmonetary default for adverse action. If it is, the procedures in §1965.26(b) of FmHA Instruction 1965-A and §1962.40(b) of FmHA Instruction 1962-A will be followed. If it is not, the County Supervisor will continue with the account.

If FmHA makes a loan to a borrower to plant the protective cover required by CRP, an assignment on the initial cash cost share payment should be taken for the amount of the loan made by FmHA to the borrower to plant the protective cover.

FmHA cannot accept voluntary transfers of Commodity Certificates to FmHA unless the requirements of FmHA Instruction 1955-A, §1955.20(b) are met. These requirements include a release of liability which will usually only be in liquidation cases. If a borrower wants to transfer the certificate, the County Supervisor will encourage him to market it and bring in the proceeds. If the borrower insists, FmHA can agree to sell it on the borrower's behalf using Form FmHA 455-4, "Agreement for Voluntary Liquidation of Chattel Security."

The County Supervisor will only agree to this type of sale if it is determined that (1) the certificate is listed on the Security Agreement and Form FmHA 1962-1 and Form FmHA 1962-1 shows FmHA will receive income from the sale of the certificate; (2) the certificate is for more than \$200.00; (3) the certificate can be sold prior to its expiration date, and (4) the borrower chooses the broker who will purchase the certificate.

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In the blank space under 1 on Form FmHA 455-4 the County Supervisor will add: "(1) The borrower chooses to sell certificate No. _____ to _____. (2) The borrower accepts market price on the date of disposal of certificate No. _____. (3) Proceeds from the sale of Certificate No. _____ will be used as set forth on Form FmHA 1962-1." No minimum price will be listed.

The County Supervisor will then dispose of the certificate the same day if possible, but no later than 5 working days from date of Form FmHA 455-4.

It should be noted that if there is an overdue outstanding Commodity Credit Corporation (CCC) loan, the CRP cash payment or Commodity Certificate will be used by ASCS to redeem the CCC loan before payment is made to FmHA or any other creditor.

Upon taking property into inventory, the County Supervisor will contact ASCS to determine if the property is in the conservation reserve. FmHA will not assume the contract or receive any rental payments during its temporary ownership of the property. Inventory property which is in the conservation reserve will only be sold or leased to a purchaser/lessor who assumes the original CRP contract. This requirement will be made clear in all sales/lease advertisements. The assuming purchaser/lessor will be entitled to receive the annual rental payments, either in the form of cash or commodity certificates, as stipulated in the original contract, contingent upon ASCS approval. The purchasers may, at their option, contact ASCS to cancel the CRP contract.

Situations not covered under FmHA Instructions 1962-A or 1965-A may be submitted to the National Office to the attention of the Assistant Administrator, Farmer Programs, for consideration under the appropriate exception authorities.



VANCE L. CLARK
Administrator